

1 HONORABLE THOMAS S. ZILLY  
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7 UNITED STATES DISTRICT COURT  
8 FOR THE WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 NATIONAL PRODUCTS INC.,

Case No. 2:17-cv-00014-TSZ

11 Plaintiff,

CONSENT JUDGMENT

12 v.

13 SCOPE MOUNTED ELECTRONICS, LLC,  
14 ATTACHIT, LLC, and APPLE CREEK  
15 WHITETAILS LLC,

Defendants.

16 THIS MATTER came before the Court on the joint submission by Plaintiff National  
17 Products, Inc. (“NPI”) and Defendants Scope Mounted Electronics LLC (“Scope Mounted”),  
18 AttachIt, LLC (“AttachIt”), and Apple Creek Whitetails LLC (“Apple Creek”) (collectively,  
19 “Defendants”), docket no. 32, of this Consent Judgment. The parties have had ample  
20 opportunity to assess the relevant facts and applicable law during the pendency of this lawsuit.  
21 Further, the judgment entered on March 14, 2018 in the case entitled *National Products Inc. v.*  
22 *Arkon Resources, Inc.*, Case 2:15-cv-01553-JPD (W.D. Wash.) (the “Arkon case”), is dispositive  
23 of several of the issues in this lawsuit. A copy of that judgment is attached hereto as Exhibit A.  
24 Accordingly, **the parties stipulate to the following:**

25 1. Plaintiff NPI is a Washington State corporation with its principal place of  
26 business at 8410 Dallas Avenue S., Seattle, WA 98108. NPI is in the business of manufacturing  
27 and selling mounting systems under the RAM and RAM MOUNTS product lines.

1       2.     Defendant Scope Mounted is a Wisconsin limited liability company with its  
2 principal place of business at 7346 Darlin Ct. Suite 11, Dane, Wisconsin 53529-9662.

3       3.     Defendants AttachIt and Apple Creek are Wisconsin limited liability companies  
4 having their principal place of business at 14109 County Trunk, VV, Gillett, WI 54124.

5       4.     NPI is the owner of United States Trademark Reg. No. 2,629,952, a certificate of  
6 which is attached hereto as Exhibit B (“Registered RAM Trademark”).

7       5.     NPI is the owner of United States Trademark Reg. No. 4,254,086, a certificate of  
8 which is attached hereto as Exhibit C, which covers the three-dimensional configuration of a  
9 double-socket mount arm that is tapered in the middle like an hourglass (“Registered Hourglass  
10 Shape Trademark”).

11      6.     NPI filed this action against Defendants on January 5, 2017, alleging seven causes  
12 of action, including infringement of the Registered RAM Trademark and the Registered  
13 Hourglass Shape Trademark (the “Action”).

14      7.     In their Amended Answer, Defendants denied that the Registered RAM  
15 Trademark and the Registered Hourglass Shape Trademark are valid or infringed.

16      8.     Defendants have advertised, marketed, distributed, and/or sold products for  
17 mounting smartphones or other electronic devices that include hourglass shape double socket  
18 mount arms purchased originally from NPI. These products include but are not limited to: the  
19 Magnetic Spotting Scope Mount, the Mark II – Magnetic Smartphone Scope Mount, Mark II –  
20 Magnetic Smartphone Scope Mount w/ Magnetic Phone Case, Mark II – Magnetic Smartphone  
21 Scope Mount w/ Magnetic Phone Case and Vehicle Suction Cup Mount, the Smartphone Scope  
22 Mount Mark II, the Mark III – Magnetic Smartphone Scope Mount, the Mark III – Magnetic  
23 Smartphone Scope Mount w/ Magnetic Phone Case and Vehicle Suction Cup Mount, Mark III –  
24 Magnetic Smartphone Scope Mount w/ Magnetic Phone Case, the Attach It Claw Mount  
25 Package, the Claw Mount w/ Attach It Magnet, the RAM® Tough-Claw Mount with Attach  
26 Magnet system, the SPORTSMAN Package, the ANYWHERE Package, the Attach It Anywhere  
27 Package, the Suction Cup Mount with Attach It Magnet, the 2” Arm Extension, the RAM®

1 PLASTIC DBL SOCKET ARM B BALL A LNG (RAP-B-201U-A), the 3" Arm Extension, the  
2 RAM® Double Socket Arm for 1" BALL (RAP-B-201U), the Round Base Surface Mount, the  
3 RAM® 2.5" DIA. BASE WITH 1" BALL (RAP-B-202U), the Diamond Base Surface Mount,  
4 the RAM® 2.5" x 15/16" BASE W/ BALL (RAP-B-238U), and the Trail Camera Attach It  
5 Mount.

6 9. On at least some of the hourglass shape double socket mount arms purchased  
7 originally from NPI, Defendants removed and/or replaced NPI's Registered RAM Trademark(s)  
8 ("Altered RAM Products"). Defendants contend that they have not sold any of the Altered RAM  
9 Products.

10 10. Defendants have also advertised, marketed, distributed, and/or sold products for  
11 mounting smartphones or other electronic devices that include hourglass shape double socket  
12 mount arms purchased originally from NPI but which are materially different from RAM  
13 products by virtue of, for example, removal or alteration of warranty coverage, differences in  
14 labeling, packaging, and marketing materials, and/or combination with other components  
15 ("Materially Different RAM Products").

16 11. Defendants have also advertised, marketed, distributed, and/or sold products for  
17 mounting smartphones or other electronic devices that include hourglass shape double socket  
18 mount arms purchased from Arkon Resources, Inc., which bear an hourglass shape and which  
19 were found to be infringing in *National Products Inc. v. Arkon Resources, Inc.*, Case 2:15-cv-  
20 01553-JPD (W.D. Wash.) ("Infringing Hourglass Products"). These products include but are not  
21 limited to: the VEHICLE Package, the Suction Cup Mount with Attach It Magnet, and the  
22 Attach It Suction Cup Mount Package.

23 12. The Altered RAM Products, the Materially Different RAM Products, and the  
24 Infringing Hourglass Products (hereafter referred to as the "Accused Products") infringe NPI's  
25 registered trademarks and/or otherwise violate NPI's intellectual property rights or other  
26 statutory or common law provisions.

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1       13. Defendants admit and irrevocably waive the right to contest that the Registered  
2 RAM Trademark and the Registered Hourglass Shape Trademark are valid and enforceable for  
3 the Accused Products and all past, present, and future products.

4       14. This Consent Judgment shall finally conclude and dispose of this litigation. As to  
5 all parties, this Judgment shall be given issue preclusive and claim preclusive effect in future  
6 litigation or Patent and Trademark Office proceedings relating to the Registered RAM  
7 Trademark or the Registered Hourglass Shape Trademark. The parties explicitly intend such  
8 issue preclusion and claim preclusion effects to extend to the issues of validity and enforceability  
9 of the Registered RAM Trademark and the Registered Hourglass Shape Trademark, whether  
10 raised in a court proceeding, Patent and Trademark Office proceeding, or other dispute even with  
11 respect to materially different products.

12 **THE COURT ORDERS as follows:**

13       A. Each party is to bear its own costs and attorneys' fees incurred in this litigation.

14       B. In view of NPI's agreed rights to enforce the Registered RAM Trademark and  
15 Registered Hourglass Shape Trademark, Defendants are hereby enjoined from infringing NPI's  
16 Registered RAM Trademark or NPI's Registered Hourglass Shape Trademark, including by  
17 importing, purchasing, advertising, marketing, selling, or otherwise disposing of the Accused  
18 Products. Defendants shall also remove all advertising, including videos on Facebook and  
19 YouTube posted by Defendants or by persons or entities under any Defendant's control,  
20 reflecting the Altered RAM Products, the Materially Different RAM Products, or the Infringing  
21 Hourglass Products, including the following videos:

22       <https://www.facebook.com/applecreekranch/videos/1089455964432872>  
23       <https://www.youtube.com/watch?v=4R9LomxuGtA>  
24       <https://www.youtube.com/watch?v=kb5dDc5B5ao>  
25       <https://www.youtube.com/watch?v=noIDoQh88vs>  
26       <https://www.youtube.com/watch?v=9Glpz11VrTg>  
27       <https://www.youtube.com/watch?v=N3RqTqap3aw>  
28       <https://www.youtube.com/watch?v=0ECmwdT8AtE>  
29       <https://www.youtube.com/watch?v=ZGfOcQBK87Q>  
30       <https://www.youtube.com/watch?v=c0DXioxv4S0>  
31       <https://www.youtube.com/watch?v=BzYTjCppbX4>

1 https://www.youtube.com/watch?v=5al-kS7lWho  
2 https://www.youtube.com/watch?v=ZoKa2o4V7BU  
3 https://www.youtube.com/watch?v=92UXn2cZCao  
4 https://www.youtube.com/watch?v=y5y5lyTevq0  
5 https://www.youtube.com/watch?v=CcTYM-nawIg  
6 https://www.youtube.com/watch?v=h4ML7Cg1jTs  
7 https://www.youtube.com/watch?v=YsMdro2Ex-c  
8 https://www.youtube.com/watch?v=92UXn2cZCao  
9 https://www.youtube.com/watch?v=FKAQ5T45xks  
10 https://www.youtube.com/watch?v=M9d9BACsXdI

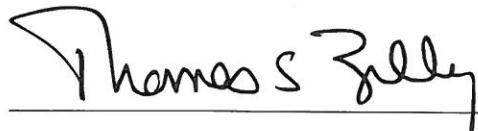
11 C. No party to this Consent Judgment may appeal the Consent Judgment. Instead,  
12 all parties knowingly, intentionally, willingly, and explicitly waive their right to appeal this  
13 Consent Judgment.

14 D. This Consent Judgment finally concludes and disposes of all the claims by NPI  
15 against Defendants in this Action **with prejudice and on the merits.**

16 The Clerk is directed to send a copy of this Consent Judgment to all counsel of record  
17 and to CLOSE this case.

18 **IT IS SO ORDERED.**

19 Dated: May 29, 2018.



20 Thomas S. Zilly  
21 United States District Judge

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2 Dated: May 14, 2018

Respectfully submitted,  
FENWICK & WEST LLP

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14 *Attorneys for Plaintiff*  
*National Products Inc.*

15 Dated: May 14, 2018

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*LLC; and Apple Creek Whitetails LLC*

# **EXHIBIT A**

United States District Court  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

NATIONAL PRODUCTS, INC.,

Plaintiff,

**AMENDED JUDGMENT IN A  
CIVIL CASE**

v.

Case No. C15-1553-JPD

ARKON RESOURCES, INC.,

Defendant.

X **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

— **Decision by Court.** This action came to consideration before the Court. The issues have been considered and a decision has been rendered.

IT IS ORDERED AND ADJUDGED:

On December 8, 2017, the Jury in this case found that plaintiff National Products, Inc.'s registered trade dress was valid, and that defendant Arkon Resources, Inc. infringed the plaintiff's registered trade dress. The Jury found in favor of defendant on plaintiff's Washington Consumer Protection Act claim. The Jury awarded plaintiff money damages in the amount of \$193,598, and found that defendant's infringement of plaintiff's registered trade dress was deliberate or willful. The Court denied Arkon's motion for a new trial conditional upon NPI accepting a remittitur reducing the damages award from \$193,598 to \$167,239.55. NPI accepted the Court's remittitur. Accordingly, NPI is entitled to \$167,239.55 in money damages.

Dated this 14th day of March, 2018.

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WILLIAM M. McCOOL  
Clerk

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s/ Tim Farrell  
Deputy Clerk

# **EXHIBIT B**

**Int. Cls.: 6 and 20**

**Prior U.S. Cls.: 2, 12, 13, 14, 22, 23, 25, 32 and 50**

**United States Patent and Trademark Office**

**Reg. No. 2,629,952**  
**Registered Oct. 8, 2002**

**TRADEMARK  
PRINCIPAL REGISTER**

**RAM**

NATIONAL PRODUCTS, INC. (WASHINGTON  
CORPORATION)  
1017 SOUTH ELMGROVE STREET  
SEATTLE, WA 98108

FOR: UNIVERSAL MOUNTING LINKAGES  
COMPRISING A BASE AND GASKET, A BALL  
AND ARM WITH SOCKET, BOLTS, SPRINGS,  
WASHERS AND THREADED TIGHTENING KNOB,  
MADE PRIMARILY OF METAL, TO BE USED  
WITH A VARIETY OF CUSTOM COMPONENTS TO  
MOUNT A WIDE VARIETY OF ITEMS FROM  
ELECTRONIC DEVICES TO FISHING ROD HOLD-  
ERS, IN CLASS 20 (U.S. CLS. 2, 13, 22, 25, 32 AND 50).

FIRST USE 4-1-1995; IN COMMERCE 4-1-1995.

FOR: UNIVERSAL MOUNTING LINKAGES  
COMPRISING A BASE AND GASKET, A BALL  
AND ARM WITH SOCKET, BOLTS, SPRINGS,  
WASHERS AND THREADED TIGHTENING KNOB,  
MADE PRIMARILY OF NON-METAL, TO BE USED  
WITH A VARIETY OF CUSTOM COMPONENTS TO  
MOUNT A WIDE VARIETY OF ITEMS FROM  
ELECTRONIC DEVICES TO FISHING ROD HOLD-  
ERS, IN CLASS 20 (U.S. CLS. 2, 13, 22, 25, 32 AND 50).

FIRST USE 4-1-1995; IN COMMERCE 4-1-1995.

OWNER OF U.S. REG. NOS. 2,322,906 AND  
2,349,277.

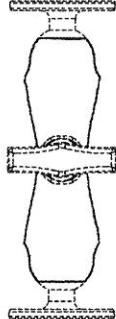
SER. NO. 76-045,715, FILED 5-8-2000.

MARY BOAGNI, EXAMINING ATTORNEY

# **EXHIBIT C**

# United States of America

## United States Patent and Trademark Office



**Reg. No. 4,254,086**

NATIONAL PRODUCTS, INC. (WASHINGTON CORPORATION)  
8410 DALLAS AVE. S.  
SEATTLE, WA 98108

**Registered Dec. 4, 2012**

**Int. Cls.: 6 and 12**

FOR: METAL UNIVERSAL MOUNTS COMPRISING A BASE, ARMS WITH SOCKETS, BALLS, BOLTS AND TIGHTENERS, TO BE USED WITH A VARIETY OF CUSTOM COMPONENTS TO MOUNT A WIDE VARIETY OF ITEMS, NAMELY, ELECTRONIC DEVICES AND SPORTING EQUIPMENT; PARTS FOR THE AFOREMENTIONED GOODS, NAMELY, DOUBLE-SOCKET METAL MOUNT ARMS, IN CLASS 6 (U.S. CLS. 2, 12, 13, 14, 23, 25 AND 50).

**TRADEMARK**

FIRST USE 0-0-1992; IN COMMERCE 0-0-1992.

**PRINCIPAL REGISTER**

FOR: MOUNTS FOR ELECTRONIC DEVICES AND SPORTING EQUIPMENT SPECIALLY ADAPTED FOR USE IN VEHICLES, IN CLASS 12 (U.S. CLS. 19, 21, 23, 31, 35 AND 44).

FIRST USE 0-0-1992; IN COMMERCE 0-0-1992.

THE MARK CONSISTS OF A THREE-DIMENSIONAL CONFIGURATION OF A DOUBLE-SOCKET MOUNT ARM THAT IS TAPERED IN THE MIDDLE LIKE AN HOURGLASS. THE DOTTED LINES OUTLINING THE ENDS OF THE MOUNT AND THE ADJUSTMENT KNOB INDICATE PLACEMENT OF THE MARK ON THE GOODS AND ARE NOT PART OF THE MARK.

SEC. 2(F).

SER. NO. 85-632,977, FILED 5-23-2012.

ELIZABETH KAJUBI, EXAMINING ATTORNEY



*David J. Kappas*

Director of the United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL  
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE  
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

***First Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See 15 U.S.C. §§1058, 1141k.* If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

***Second Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.\*  
*See 15 U.S.C. §1059.*

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or  
reminder of these filing requirements.**

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See 15 U.S.C. §§1058, 1141k.* However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See 15 U.S.C. §1141j.* For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**